

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

WADE ALAN KNIGHT,

v.

ELKO COUNTY, *et al.*,

Plaintiff,

Defendants.

Case No. 3:22-cv-00331-MMD-CSD

ORDER SCREENING FIRST AMENDED
COMPLAINT, GRANTING APPLICATION
TO PROCEED IN *FORMA PAUPERIS*,
AND DIRECTING SERVICE

This action began with a civil-rights complaint and an application to proceed *in forma pauperis* filed by state prisoner Wade Knight, who is currently held in the custody of the Elko County Sheriff's office at the Elko County Detention Center ("ECDC"). (ECF Nos. 1-1, 1, 3, 4.) In screening Knight's Complaint, the Court allowed the medical-indifference and bodily-privacy claims to proceed, dismissed the shower-condition-indifference claim with leave to amend by October 3, 2022, and dismissed the other claims with prejudice and without leave to amend. (ECF No. 5 at 13.) Knight has timely filed his First Amended Complaint ("FAC"). (ECF No. 7.) The Court now screens the FAC under 28 U.S.C. § 1915A, grants Knight's third application to proceed *in forma pauperis*, and directs that service of process be effectuated.

I. SCREENING STANDARD

Federal courts must conduct a preliminary screening in any case in which an incarcerated person seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the Court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. See *id.* §§ 1915A(b)(1), (2). *Pro se* pleadings, however, must be liberally construed. See *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.

1 1990). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
 2 elements: (1) the violation of a right secured by the Constitution or laws of the United
 3 States; and (2) that the alleged violation was committed by a person acting under color
 4 of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

5 Additionally, under the Prison Litigation Reform Act (“PLRA”), a federal court must
 6 dismiss an incarcerated person’s claim if “the allegation of poverty is untrue” or if the
 7 action “is frivolous or malicious, fails to state a claim on which relief may be granted, or
 8 seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C.
 9 § 1915(e)(2). Dismissal of a complaint for failure to state a claim upon which relief can be
 10 granted is provided for in Federal Rule of Civil Procedure 12(b)(6), and the Court applies
 11 the same standard under § 1915 when reviewing the adequacy of a complaint or an
 12 amended complaint. When a court dismisses a complaint under § 1915(e), the plaintiff
 13 should be given leave to amend the complaint with directions as to curing its deficiencies,
 14 unless it is clear from the face of the complaint that the deficiencies could not be cured
 15 by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

16 Review under Rule 12(b)(6) is essentially a ruling on a question of law. *See*
 17 *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 (9th Cir. 2000). Dismissal for failure to
 18 state a claim is proper only if the plaintiff clearly cannot prove any set of facts in support
 19 of the claim that would entitle him or her to relief. *See Morley v. Walker*, 175 F.3d 756,
 20 759 (9th Cir. 1999). In making this determination, the Court takes as true all allegations
 21 of material fact stated in the complaint, and the Court construes them in the light most
 22 favorable to the plaintiff. *See Warshaw v. Xoma Corp.*, 74 F.3d 955, 957 (9th Cir. 1996).
 23 Allegations of a *pro se* complainant are held to less stringent standards than formal
 24 pleadings drafted by lawyers. *See Hughes v. Rowe*, 449 U.S. 5, 9 (1980). While the
 25 standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff must
 26 provide more than mere labels and conclusions. *See Bell Atl. Corp. v. Twombly*, 550 U.S.
 27 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient.
 28 *See id.*

1 Additionally, a reviewing court should “begin by identifying pleadings [allegations]
 2 that, because they are no more than mere conclusions, are not entitled to the assumption
 3 of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “While legal conclusions can provide
 4 the framework of a complaint, they must be supported with factual allegations.” *Id.* “When
 5 there are well-pleaded factual allegations, a court should assume their veracity and then
 6 determine whether they plausibly give rise to an entitlement to relief.” *Id.* “Determining
 7 whether a complaint states a plausible claim for relief . . . [is] a context-specific task that
 8 requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

9 Finally, all or part of a complaint filed by an incarcerated person may be dismissed
 10 *sua sponte* if that person’s claims lack an arguable basis either in law or in fact. This
 11 includes claims based on legal conclusions that are untenable (e.g., claims against
 12 defendants who are immune from suit or claims of infringement of a legal interest which
 13 clearly does not exist), as well as claims based on fanciful factual allegations (e.g.,
 14 fantastic or delusional scenarios). See *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989);
 15 see also *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

16 **II. SCREENING OF FAC**

17 In his FAC, Knight sues five Defendants for events that allegedly took place at
 18 ECDC. (ECF No. 7 at 1.) Knight sues Defendants Elko County, Aitor Narvaiza, Adrian
 19 Parry, Starla Ricks, and Taylor Crowther. (*Id.* at 2-3.) Knight brings three claims and seeks
 20 monetary relief.¹ (*Id.* at 4-18.)

21 **A. Factual allegations²**

22 Knight is a state prisoner who has been sentenced to a 16-40-month term within
 23 the NDOC but is housed at ECDC while he awaits trial in another case. (*Id.* at 3-4.) Knight
 24 is housed in an open dorm block with 24 other detainees or inmates. (*Id.* at 4.) The
 25 plumbing is damaged in Knight’s dorm block. (*Id.* at 4.) Only one shower works; the other
 26 showers have been shut off by maintenance. (*Id.*)

27 ¹Kody Holland prepared or helped prepare the FAC. (ECF No. 7 at 18.)

28 ²The Court uses any job title or position that Knight ascribes to Defendants. This
 should not be construed as a finding about the truthfulness of those allegations.

1 One of the showers is missing its entire plumbing assembly and a “huge hole” is
2 present. (*Id.*) The only working shower does not drain properly. (*Id.* at 5.) The bottom-tier
3 bathroom—where the one working shower is located—is constantly covered with dirt and
4 feces and has a terrible stench. (*Id.*) These conditions have existed for over two months.
5 (*Id.*) ECDC Director Parry is aware of the problems with the plumbing in Knight’s dorm
6 block because multiple work orders for repairs were made to her, but she ignored them;
7 she ordered maintenance to turn the showers off due to leaking; and inmates have filed
8 multiple kites complaining about this condition. (*Id.* at 4-5.)

9 Knight’s dorm block has cameras on the top and bottom tiers that face the
10 bathrooms from above the fire exits. (*Id.* at 7.) The cameras view inside the bathrooms.
11 (*Id.*) Knight believes that the cameras have a close and clear view of inmates using the
12 toilets, urinals, and showers. (*Id.*) Correctional officers wear body cameras and can
13 capture images of inmates using the toilets, urinals, and showers. (*Id.*)

14 An incident occurred at ECDC wherein one inmate attacked another in the
15 bathroom. (*Id.* at 7-8.) The video was close enough that the correctional officer reviewing
16 it saw an inmate curl himself into a ball during the attack. (*Id.* at 8-9.) Knight infers that
17 videos from the cameras could show inmates using the toilets, urinals, and showers. (*Id.*
18 at 9.) And thus view the inmates’ exposed body parts. Knight believes that anyone can
19 access the videos because the Elko County District Attorney’s Office has a policy of
20 providing anyone who pays the copying charge a complete copy of all reports, photos,
21 and compact disks it receives in connection with a formal charge. (*Id.* at 7-8.)

22 The video cameras in Knight’s dorm block have been placed according to Elko
23 County policy. (*Id.* at 9.) Narvaiza and Parry are aware of and determined where the
24 cameras would be placed and know they show the inmates using the toilets, urinals, and
25 showers. (*Id.* at 9-10.) Parry is female and can view the feed or videos from the cameras.
26 (*Id.* at 10.)

27 Knight has hepatitis C. (*Id.* at 11.) Doctors Ricks and Crowther have refused to
28 treat Knight’s condition, saying they don’t treat chronic conditions at ECDC. (*Id.*) Ricks

1 and Crowther diagnosed Knight's condition between 2018 and 2020. (*Id.* at 13.) They
2 pulled his blood to determine his genotype, which would allow them to order a proper
3 treatment plan. (*Id.*) The treatment plan was sent over to the Elko County manager, but
4 approval was delayed six months, and approval was never given. (*Id.*)

5 Knight has sent Ricks and Crowther kites reminding them they need to reorder his
6 treatment plan and resubmit it to Elko County for approval. (*Id.*) Knight's approval for the
7 treatment was delayed and denied because Elko County has a policy not to treat inmates
8 at ECDC who have been diagnosed with Hepatitis C because it is too costly. (*Id.* at 14.)
9 Knight's kites about this have been returned saying he will not get treatment because it
10 costs too much. (*Id.*) Parry is responsible for overseeing documents about medical
11 approvals. (*Id.* at 11.) When Parry receives approval from Elko County for an inmate's
12 medical treatment, she provides the paperwork to medical providers authorizing the
13 treatment. (*Id.*)

14 Parry, Ricks, and Crowther approved Knight to receive an extra mattress because
15 of symptoms suffered from his condition. (*Id.* at 14.) Knight's viral loads are not consistent
16 with a healthy person. (*Id.*) He is "on his death bed." (*Id.*) He has muscle failure and
17 fatigue, fluid retention, nausea, excessive viral loads, and liver scarring. (*Id.* at 15.)

18 Based on these allegations, Knight contends that Defendants were deliberately
19 indifferent to his serious medical needs and the conditions of his confinement, and
20 violated his right to bodily privacy. Knight alleges that he is currently a state prisoner who
21 is housed at ECDC while he awaits trial in another case. It is not clear from the allegations
22 when Knight's custodial sentence began. Because Knight could have been both a pretrial
23 detainee and, later, a prisoner during the time frames alleged in the FAC, the Court
24 liberally construes the FAC as alleging claims based on the following different theories of
25 liability: (1) Eighth and Fourteenth Amendment deliberate-medical indifference to
26 hepatitis C condition, (2) Eighth Amendment and Fourteenth Amendment deliberate
27 indifference to shower conditions, (3) Fourteenth Amendment right to bodily privacy, and
28 (4) municipal liability. The Court addresses each theory in turn.

B. Deliberate medical indifference

Pretrial detainees may raise inadequate medical care claims under the Fourteenth Amendment's Due Process Clause. See *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1124 (9th Cir. 2018). Courts evaluate these claims under an objective deliberate indifference standard. See *id.* at 1125. The elements of a pretrial detainee's inadequate medical care claim are:

(i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant's conduct obvious; and (iv) by not taking such measures, the defendant caused the plaintiff's injuries.

See *id.* The third element requires the defendant's conduct to be "objectively unreasonable," a test that turns on the facts and circumstances of each case. *Id.* A plaintiff must "prove more than negligence but less than subjective intent—something akin to reckless disregard." *Id.*

Prisoners may raise inadequate medical care claims under the Eighth Amendment, which prohibits the imposition of cruel and unusual punishment and “embodies ‘broad and idealistic concepts of dignity, civilized standards, humanity, and decency.’” *Estelle v. Gamble*, 429 U.S. 97, 102 (1976). A prison official violates the Eighth Amendment when he acts with “deliberate indifference” to the serious medical needs of an inmate. *Farmer v. Brennan*, 511 U.S. 825, 828 (1994). “To establish an Eighth Amendment violation, a plaintiff must satisfy both an objective standard—that the deprivation was serious enough to constitute cruel and unusual punishment—and a subjective standard—deliberate indifference.” *Snow v. McDaniel*, 681 F.3d 978, 985 (9th Cir. 2012), *overruled on other grounds by Peralta v. Dillard*, 744 F.3d 176, 1082-83 (9th Cir. 2014).

To establish the objective prong, “the plaintiff must show a serious medical need by demonstrating that failure to treat a prisoner’s condition could result in further significant injury or the unnecessary and wanton infliction of pain.” *Jett v. Penner*, 439

1 F.3d 1091, 1096 (9th Cir. 2006) (internal quotations omitted). Serious medical needs
 2 include those “that a reasonable doctor or patient would find important and worthy of
 3 comment or treatment; the presence of a medical condition that significantly affects an
 4 individual’s daily activities; or the existence of chronic and substantial pain.” *Colwell v.*
 5 *Bannister*, 763 F.3d 1060, 1066 (9th Cir. 2014).

6 To satisfy the subjective deliberate indifference prong, a plaintiff must show “(a) a
 7 purposeful act or failure to respond to a prisoner’s pain or possible medical need and
 8 (b) harm caused by the indifference.” *Jett*, 439 F.3d at 1096. “Indifference may appear
 9 when prison officials deny, delay or intentionally interfere with medical treatment, or it may
 10 be shown by the way in which prison physicians provide medical care.” *Id.* (internal
 11 quotations omitted). A prison official may only be held liable if he or she “knows of and
 12 disregards an excessive risk to inmate health and safety.” *Toguchi v. Chung*, 391 F.3d
 13 1051, 1057 (9th Cir. 2004). When a prisoner alleges that delay of medical treatment
 14 evinces deliberate indifference, the prisoner must show that the delay led to further injury.
 15 See *Shapley v. Nevada Bd. of State Prison Comm’rs*, 766 F.2d 404, 407 (9th Cir. 1985)
 16 (holding that “mere delay of surgery, without more, is insufficient to state a claim of
 17 deliberate medical indifference”).

18 A municipality like a county can be found liable under § 1983 if it causes the
 19 violation at issue. See *City of Canton, Ohio v. Harris*, 489 U.S. 378, 385 (1989) (citing
 20 *Monell v. New York City Dept. of Social Servs.*, 436 U.S. 658 (1978)). And private entities
 21 that contract with a county are treated like municipalities for claims brought under § 1983.
 22 See *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir. 2012). To state a claim
 23 for municipal or county liability, a plaintiff must allege that he suffered a constitutional
 24 deprivation that was the product of a policy or custom of the local government unit. See
 25 *City of Canton*, 489 U.S. at 385. “Official municipal policy includes the decisions of a
 26 government’s lawmakers, the acts of its policymaking officials, and practices so persistent
 27 and widespread as to practically have the force of law.” See *Connick v. Thompson*, 563
 28 // /

1 U.S. 51, 61 (2011). Municipalities are not vicariously liable under § 1983 for their
 2 employees' actions. See *id.* at 60.

3 A policy has been defined as "a deliberate choice to follow a course of action . . .
 4 made from among various alternatives by the official or officials responsible for
 5 establishing final policy with respect to the subject matter in question." *Long v. Cnty. of*
 6 *Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006) (citing *Monell*, 436 U.S. at 690); see
 7 also *Waggy v. Spokane Cnty. Washington*, 594 F.3d 707, 713 (9th Cir. 2010). The weight
 8 of authority has established that a "policy can be one of action or inaction" within the
 9 meaning of *Monell*. *Waggy*, 594 F.3d at 713 (citing *City of Canton*, 489 U.S. at 388). "Both
 10 types of claims require that the plaintiff prove a constitutional violation." *Id.* (citing 42
 11 U.S.C. § 1983).

12 Based on the allegations, Knight was diagnosed with hepatitis C in 2018, 2019, or
 13 2020 while he was housed at ECDC. Ricks and Crowther provided the diagnosis and
 14 further examined Knight's blood to determine his genotype so they could formulate an
 15 effective treatment plan. But Knight was not approved for treatment because it was too
 16 costly. Elko County has a policy not to approve requests for costly hepatitis C treatment.

17 Parry, Ricks, and Crowther approved Knight's request for an extra mattress to help
 18 with his symptoms. Knight has experienced muscle failure and fatigue, fluid retention, and
 19 nausea because of his condition. He has excessive viral loads and liver scarring. Knight
 20 has filed kites seeking treatment and been to sick calls about his symptoms. But Ricks
 21 and Crowther refuse to treat his condition or even see him, saying they don't treat chronic
 22 conditions at ECDC.

23 The Court finds that the allegations are enough for screening purposes to state a
 24 colorable claim under the Eighth and the Fourteenth Amendments that Ricks and
 25 Crowther were deliberately indifferent to Knight's serious medical need to treat his
 26 hepatitis C condition. The allegations are also enough to state a colorable claim against
 27 Elko County under the theory of municipal liability for its policy not to treat hepatitis C
 28 conditions due to cost. But the allegations are not enough to state a colorable claim

1 against Parry because Knight does not allege facts that Parry knew he needed medical
 2 attention beyond the extra mattress that she approved for him. And Knight's allegation
 3 that Parry is the conduit for paperwork associated with medical-treatment approval does
 4 not state a claim because he alleges that Elko County decides whether to provide
 5 treatment—not Parry—and Elko County delayed and declined to approve his treatment.
 6 The medical-indifference claims can therefore proceed against only Ricks and Crowther,
 7 and also against Elko County under a theory of municipal liability.

8 **C. Deliberate shower-condition indifference**

9 A pretrial detainee's claims challenging unconstitutional conditions of confinement
 10 fall under the Fourteenth Amendment's Due Process Clause. See *Gordon*, 888 F.3d at
 11 1124 & n.2. The Court evaluates Fourteenth Amendment conditions-of-confinement
 12 claims under the objective deliberate indifference standard. See *id.* To establish
 13 unconstitutional conditions of confinement, a plaintiff must prove that:

14 (i) the defendant made an intentional decision with respect to the conditions
 15 under which the plaintiff was confined; (ii) those conditions put the plaintiff
 16 at substantial risk of suffering serious harm; (iii) the defendant did not take
 17 reasonable available measures to abate that risk, even though a reasonable
 18 official in the circumstances would have appreciated the high degree of risk
 involved—making the consequences of the defendant's conduct obvious;
 and (iv) by not taking such measures, the defendant caused the plaintiff's
 injuries.

19 *Id.* at 1125; see also *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016).
 20 When evaluating the objective reasonableness of the defendant's conduct, a pretrial
 21 detainee may show that "the challenged governmental action is not rationally related to a
 22 legitimate governmental objective or that it is excessive in relation to that purpose."
 23 *Kingsley v. Hendrickson*, 576 U.S. 389, 397-98 (2015).

24 A prisoner's claim challenging the conditions of his confinement are analyzed
 25 under the Eighth Amendment. See *Helling v. McKinney*, 509 U.S. 25, 31 (1993). A
 26 prisoner's conditions of confinement may, consistent with the Constitution, be restrictive
 27 and harsh. See *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). However, "[p]rison
 28 officials have a duty to ensure that prisoners are provided adequate shelter, food,

1 clothing, sanitation, medical care, and personal safety." *Johnson v. Lewis*, 217 F.3d 726,
 2 731 (9th Cir. 2000).

3 When determining whether prison conditions meet the objective prong of the
 4 Eighth Amendment analysis, the court must analyze each condition separately to
 5 determine whether that specific condition violates the Eighth Amendment. See *Wright v.*
 6 *Rushen*, 642 F.2d 1129, 1133 (9th Cir. 1981). "[T]he deprivation alleged must be,
 7 objectively, sufficiently serious" and "a prison official's act or omission must result in the
 8 denial of the minimal civilized measure of life's necessities." *Farmer v. Brennan*, 511 U.S.
 9 825, 834 (1994) (internal quotations and citations omitted). As to the subjective prong of
 10 the Eighth Amendment analysis, prisoners must establish prison officials' "deliberate
 11 indifference" to the unconstitutional conditions of confinement to establish an Eighth
 12 Amendment violation. *Id.* When considering the conditions of confinement, the court
 13 should consider the amount of time to which the prisoner was subjected to the condition.
 14 See *Hearns v. Terhune*, 413 F.3d 1036, 1042 (9th Cir. 2005).

15 Based on the allegations, only one shower works on Knight's dorm block. The
 16 shower serves 25 inmates. The other showers don't work because the plumbing is broken
 17 and water to them has been shut off. The plumbing has been removed from one shower
 18 and a huge hole is present. The drain does not work well in the shower that does work,
 19 so Knight encounters detritus from other inmates. The bathroom with the working shower
 20 is constantly covered in dirt and feces and smells awful. These conditions have existed
 21 for over two months. Multiple work orders were submitted to Parry to correct the problems,
 22 but she ignored them. Parry instructed maintenance to shut off some of the showers due
 23 to leaking issues. Many inmates have sent Parry kites complaining about the showers.

24 The Court finds that these allegations are enough to state a colorable claim for
 25 screening purposes that the showers in Knight's dorm block constitute sufficiently serious
 26 conditions for the Eighth and Fourteenth Amendment's purposes, and Parry was
 27 deliberately indifferent to the health and sanitation risks posed by those conditions. The
 28 shower-indifference claims can therefore proceed against only Parry.

1 **D. Fourteenth Amendment—right to bodily privacy**

2 “The right to bodily privacy [under the Fourteenth Amendment] was established in
 3 this circuit in 1963.” *Vazquez v. Cnty. of Kern*, 949 F.3d 1153, 1160 (9th Cir. 2020)
 4 (collecting cases). The Ninth Circuit “extended ‘this right to prison inmates in 1985,’” and
 5 “held that a pretrial detainee has ‘at least the same right to bodily privacy as a prisoner[.]’”
 6 *Id.* (citing *Byrd v. Maricopa Cnty. Bd. of Supervisors*, 845 F.3d 919, 923 (9th Cir. 2017)).
 7 “When a prison regulation impinges on inmates’ constitutional rights, the regulation is
 8 valid if it is reasonably related to legitimate penological interests.” *Byrd*, 845 F.3d at 923
 9 (quoting *Turner v. Safley*, 482 U.S. 78, 89 (1987)) (brackets omitted). Courts consider
 10 four factors in determining if a prison regulation can survive a constitutional challenge,
 11 whether: (1) “there is a ‘valid, rational connection between the prison regulation and the
 12 legitimate governmental interest put forward to justify it’; (2) ‘there are alternative means
 13 of exercising the right’; (3) ‘the impact accommodation of the asserted constitutional right
 14 will have on guards and other inmates, and on the allocation of prison resources’; and
 15 (4) there is an ‘absence of ready alternatives[.]’” *Id.* at 923–24 (quoting *Turner*, 482 U.S.
 16 at 89-90).

17 Based on the allegations, Elko County has a policy of placing security cameras at
 18 ECDC in such a way that they face into the bathrooms in the dorm block and can view
 19 inmates using the toilets, urinals, and showers. The views from these cameras are not
 20 obscured or distant. Parry and Narvaiza enacted, created, or enforced the policy because
 21 they were the officials who decided where the cameras would be placed. Narvaiza is the
 22 Sheriff of Elko County and Parry is the director of the ECDC. Female prison staff like
 23 Parry are permitted to view the live feeds or videos captured by these cameras.

24 The Court finds that these allegations are enough for screening purposes to state
 25 a colorable claim under the Fourteenth Amendment about the camera-placement policy
 26 at ECDC. The Fourteenth Amendment claim for violating the right to bodily privacy can
 27 therefore proceed against Parry and Narvaiza, and also against Elko County under the
 28 theory of municipal liability.

1 **III. APPLICATIONS TO PROCEED IN FORMA PAUPERIS**

2 Knight has thrice applied for pauper status in this case. (ECF Nos. 1, 3, 4.) Knight's
3 most recent application is complete and contains updated financial information. (See ECF
4 No. 4.) So the Court denies Knight's earlier applications as moot. (ECF Nos. 1, 3.) Based
5 on the information provided in Knight's third application, the Court finds that he is unable
6 to prepay the full filing fee in this action. The Court therefore grants Knight's third
7 application to proceed *in forma pauperis*.

8 **IV. CONCLUSION**

9 It is therefore ordered that Plaintiff Knight's first two applications to proceed *in*
10 *forma pauperis* (ECF Nos. 1, 3) are denied as moot and his third application (ECF No. 4)
11 is granted. Pauper status doesn't relieve Plaintiff Knight of his obligation to pay the full
12 \$350 filing fee under 28 U.S.C. § 1915; it just means that he can do it in installments.
13 Knight will not be required to pay an initial installment of the filing fee. And he is permitted
14 to maintain this action to conclusion without the necessity of prepayment of any additional
15 fees or costs or the giving of security therefore. But the full \$350 filing fee will remain due
16 and owing even if this case is later dismissed.

17 To ensure that Plaintiff Knight pays the full filing fee, it is further ordered that the
18 Elko County Sheriff's Department must pay to the Clerk of the United States District Court,
19 District of Nevada, 20% of the preceding month's deposits to the account of **Wade Alan**
20 **Knight, #31672** (in months that the account exceeds \$10) until the full \$350 filing fee has
21 been paid for this action.

22 It is further ordered that the Eighth and Fourteenth Amendment claims for
23 deliberate medical indifference to hepatitis C condition can proceed against only
24 Defendants Starla Ricks and Taylor Crowther, and also against Elko County under the
25 theory of municipal liability.

26 It is further ordered that the Eighth and Fourteenth Amendment claims for
27 deliberate indifference to shower condition can proceed against only Defendant Adrian
28 Parry.

1 It is further ordered that the Fourteenth Amendment bodily privacy claim can
2 proceed against only Defendants Aitor Narvaiza and Parry, and also against Elko County
3 under the theory of municipal liability.

4 It is further ordered that each Defendant must be served with a summons and
5 copies of the First Amended Complaint (ECF No. 7) and this order. See Fed. R. Civ. P.
6 4. To accomplish service, Plaintiff Knight has until October 31, 2022 to provide the U.S.
7 Marshal with the required USM-285 forms containing the relevant information as to each
8 Defendant—one Defendant per form.

9 It is further ordered that after Knight receives a copy of the USM-285 forms from
10 the U.S. Marshal showing whether service has been accomplished, he will have 20 days
11 to file a notice with the Court identifying which Defendants were served and which were
12 not served. If Knight wishes to have service again attempted on any unserved Defendant,
13 he must file a motion with the Court identifying the unserved Defendant and specifying a
14 more detailed name or address for the Defendant, or state whether some other manner
15 of service should be attempted.

16 It is further ordered that Knight will serve upon all Defendants or, if an appearance
17 has been entered by counsel, upon each Defendant's attorney, a copy of every pleading,
18 motion, notice, or other document he submits for the Court's consideration. If Knight
19 electronically files a document with the Court's electronic-filing system, no certificate of
20 service is required. See Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-
21 1. But if Knight mails the document to the Court, he must include a certificate stating the
22 date that a true and correct copy of the document was mailed to each Defendant or their
23 counsel. If counsel has entered a notice of appearance, Knight must direct service to the
24 individual attorney named in the notice of appearance and at the physical or electronic
25 address stated therein. The Court may disregard any document received by a district
26 judge or magistrate judge that has not been filed with the Clerk, and any document
27 received by a district judge, magistrate judge, or the Clerk that fails to include a certificate
28 showing proper service when required.

1 The Clerk of the Court is directed to:

11 DATED THIS 3rd Day of October 2022.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE